

### **REMARKS**

Presently, claims 1-20, 22-43 and 45-67 are pending in the application. None of the claims were amended in this response. Favorable reconsideration is earnestly requested.

Claims 1-4, 6, 8-14, 17-20, 29-41, 43, 45, 47-48, 53, 55-62, 65 and 67 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Geiger et al. (US Patent Pub. 2001/0028301), in view of Crystal et al. (US Patent Pub. 2003/0171833), and further in view of Forr et al. (US Patent Pub. 2005/0200476).

Claims 5, 7, 15-16, 28, 42, 49 and 64 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Geiger et al. (US Patent Pub. 2001/0028301), in view of Crystal et al. (US Patent Pub. 2003/0171833), in view of Forr et al. (US Patent Pub. 2005/0200476), and further in view of Schuster et al. (US Patent Pub. 2004/0027271);

Claims 22-23 and 50-51 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Geiger et al. (US Patent Pub. 2001/0028301), in view of Crystal et al. (US Patent Pub. 2003/0171833), in view of Forr et al. (US Patent Pub. 2005/0200476), and further in view of Burgess (US Patent No. 6,720,876);

Claims 24, 52 and 54 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Geiger et al. (US Patent Pub. 2001/0028301), in view of Crystal et al. (US Patent Pub. 2003/0171833), in view of Forr et al. (US Patent Pub. 2005/0200476), and further in view of Hampton et al. (US Pat No. 6,252,522);

Claims 26, 27, 46 and 66 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Geiger et al. (US Patent Pub. 2001/0028301), in view of Crystal et al. (US Patent Pub. 2003/0171833), in view of Forr et al. (US Patent Pub. 2005/0200476), and further in view of Maggio (US Patent No. 5,489,096); and

Claim 63 was rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Geiger et al. (US Patent Pub. 2001/0028301), in view of Crystal et al. (US Patent Pub. 2003/0171833), in view of Forr et al. (US Patent Pub. 2005/0200476), and further in view of Steinbrecher (US Patent Pub. 2003/0061002). Applicant respectfully traverses these rejections.

Regarding amended claims 1 and 31, the prior art, alone or in combination, fails to teach or suggest the features of “providing a portable monitor comprising a wireless receiver to a respective participant selected from a plurality of participants in the market research study, the

portable monitor being adapted to be carried on the person of a participant; detecting product data in the portable monitor, the product data being contained in a product signal received in the wireless receiver from a predetermined signal transmitter proximal to a respective product, the product data representing the respective product, the product signal having a signal strength selected so that the product data is detectable by the portable monitor only when in a predetermined proximity to the predetermined signal transmitter; [and] storing first time data on a predetermined time base in association with the product data representing timing of proximity to the product.”

Regarding Geiger, the document teaches a device that is *not* carried on the person of the participant, but is attached to a shopping cart ([0008]; [0032]) so that promotional material may be forwarded to the device ([0054]). In contrast to the present claims, Geiger is not concerned with tracking the time of a user’s proximity to a product (and hence determining product exposure), but merely forwards advertisements and other promotions to the shopping cart, which do not necessarily have anything to do with the proximal product (see, e.g., [0058]).

Crystal does not solve the deficiencies of Geiger, discussed above. While Crystal discloses the transmission of location codes ([0040]), these codes are in relation to a portable device’s location in relation to a receiver that is receiving media data ([0035-37]). Crystal does not disclose the monitoring of product data and the proximal location of a user to the product transmitter. Additional, there is no apparent reason why one skilled in the art would combine the teaching of Crystal with Geiger in the manner suggested in the Office Action, as the Office Action fails to explain how a media receiver (per Crystal) would be incorporated into the shopping cart of Geiger.

Regarding Forr, Applicant wishes to point out that the application was filed on March 15, 2004, which is the same filing date of the present application. As such, the application is not prior art to the present application under 35 U.S.C. §102 or §103 (see MPEP 2136.03; *Ex parte Gilderdale*, 1990 Pat. App. LEXIS 25 (Bd. Pat. App. & Inter. Appeal no. 89-0352), cited application filed on the same day as the examined application and thus no 35 U.S.C. 102(e) rejection could be made). Accordingly the rejection is improper and should be withdrawn.

Schuster also does not solve the deficiencies of Crystal and Geiger. Similar to Crystal, Schuster discloses the proximity of a user to a media receiver, and has nothing to do with monitoring of product data and the proximal location of a user to the product transmitter. Just as

in Crystal, there is no apparent reason why one skilled in the art would combine Schuster with Geiger in the manner suggested in the Office Action.

Burgess and Hampton also do not solve the deficiencies of the art discussed above. Burgess deals with the tracking of multiple objects utilizing GPS, Polhemus, etc. systems (col. 2, lines 12 et al.) where the location of an object relative to a transmitter is known and fixed (col. 3, lines 40-65). Regarding Hampton, the document merely discloses a manual method for recording exposure to a billboard, where the user would manually depress a button to indicate exposure (col. 6, lines 9-16). For at least these reasons, Applicants submit the rejection to claims 1-20, 22-43 and 45-47 should be withdrawn.

Additionally, the prior art, alone or in combination, fails to teach or suggest the features of “storing product location data representing a location of a predetermined product; monitoring a location of a participant in market research by means of a portable monitor carried on the person of the participant; storing participant location data representing a plurality of locations of the participant monitored by means of the portable monitor; and processing the participant location data and the product location data to produce product proximity data indicating exposure of the participant to the predetermined product.” as recited in independent claims 48 and similarly recited in independent claim 59. None of the cited references disclose the monitoring of participant location in the portable monitor. For at least these reasons, Applicant respectfully submits the rejection to claims 48-67 should be withdrawn.

In light of the arguments provided above, Applicants respectfully submit the rejections are improper and should be withdrawn. Applicants respectfully submit that the patent application is in condition for allowance and request an early Notice of Allowance. The Commissioner is authorized to charge and credit Deposit Account No. 120913 for any additional fees associated with the submission of this Response. Please reference docket number 52579-113197 (P0125A).

Respectfully submitted,

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